

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 11/30/2020

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GUO WENGUI,

Plaintiff,

-v-

INTIZAR TURSUN *et al.*,

Defendants.
-----X

20-CV-2781 (JPC)

ORDER

JOHN P. CRONAN, United States District Judge:

Plaintiff filed the Complaint on April 3, 2020. (Dkt. 1). More than six months passed, and Plaintiff has not filed proof of service of a summons or the Complaint on any of the named Defendants.

On October 13, 2020, the Court issued an Order requiring that Plaintiff show cause as to why Plaintiff failed to serve the summons and Complaint within the 90 days prescribed pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. (Dkt. 11.) The Court further informed Plaintiff that it would dismiss the case if good cause was not shown for his failure to effect service. (Dkt. 11.) On October 27, 2020, Plaintiff notified the Court by letter that he would “withdraw the instant action, without prejudice.” (Dkt. 12.) On October 28, 2020, and in response to Plaintiff’s letter, the Court directed the Plaintiff to Federal Rule of Civil Procedure 41(a)(1) should he wish to voluntarily withdraw his action without prejudice. (Dkt. 13.) Plaintiff has not taken any action in the more than one month that has passed since then.

Federal Rule of Civil Procedure 41 authorizes a court to dismiss an action for failure to prosecute or comply with an order of the Court. Fed R. Civ. P. 41(b); *see LeSane v. Hall’s Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001) (“[I]t is unquestioned that Rule 41(b) also gives the

district court authority to dismiss a plaintiff's case *sua sponte* for failure to prosecute . . .").

It is hereby ORDERED that Plaintiff inform the Court by December 14, 2020, whether he intends to proceed with this case, and if so, Plaintiff is further ORDERED to show cause why his action should not be dismissed for failure to prosecute. Alternatively, Plaintiff may choose to voluntarily dismiss this case pursuant to Federal Rule of Civil Procedure 41(a)(1)(A) by that date.

If Plaintiff fails to inform the Court of his intent to proceed with this case and show cause why his action should not be dismissed by December 14, 2020, the Court may dismiss this action for failure to prosecute without further notice.

SO ORDERED.

Dated: November 30, 2020
New York, New York



JOHN P. CRONAN
United States District Judge